

MINUTES
UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
UTAH WATER QUALITY BOARD MEETING

Cannon Health Building Room 125
288 North 1460 West
Salt Lake City, Utah 84116
December 5, 2003
9:30 a.m.

UTAH WATER QUALITY BOARD MEMBERS PRESENT

David Echols	Ray Child
Dianne Nielson	Neil Kochenour
Bill Williams	Rob Adams
Mayor Douglas Thompson	Mayor Joe Piccolo
Ann Wechsler	Ron Sims
Jay Olsen	

DIVISION OF WATER QUALITY STAFF MEMBERS PRESENT

Don Ostler, Walt Baker, Faye Bell, Karin Tatum, Candace Cady, Rino Dicaldo, Ed Macauley, Tim Beavers, Shelly Quick, Judy Etherington, Randy Taylor, Rob Herbert, Mark Schmitz, Sid Curnow

OTHERS PRESENT

<u>Name</u>	<u>Organization Representing</u>
Keith B Fryer	Lake Point Improvement District
Debbie Morgan	Goshen Town
Allen Carter	Goshen Town
Rick Noll	NFSSD – Forsgren Associates
Lee Kapaloski	NFSSD – Parsons Behle & Latimer
Tom Austin	Sunrise Engineering
Fred Nelson	Attorney Generals Office
JD McDonald	Public
Bruce Keeler	Town of Castle Valley
Janae Wallace	Utah Geological Survey
Mike Lowe	Utah Geological Survey
Curtis Ludvigson	Rural Water Association of Utah
Terral Dunn	Rural Water Association of Utah
Dane Finerfrock	Division of Radiation Control
John Bennett	GOPB/Quality Growth Commission

Chairman Williams called the Board meeting to order at 9:35 a.m. He welcomed those in attendance and invited the members of the audience to introduce themselves.

Presentation and Introductions: In behalf of the Water Quality Board Mr. Williams presented a clock to JD McDonald, who retired from the Division of Water Quality this past year. This was in recognition of JD's many years of service to the Board as a member of the Division staff.

Don Ostler introduced new staff members to the Board and identified existing staff who have changed jobs within the Division. These included: Rob Herbert, formerly with the Division of Radiation Control, as the new Manager of the Ground Water Protection Section; Gennaro Dicaldo, who filled the vacancy left by JD McDonald; and Karin Tatum, who transferred from the Permits & Compliance Section to the Construction Assistance Section.

APPROVAL OF MINUTES OF THE OCTOBER 31, 2003 MEETING

Ms. Weschler noted a typo on the second paragraph of page 2 which should read "filling the position", not "filing". Dr. Nielson stated on page 4 under the Update on Jordan Valley Water Conservancy District discharge permit, that she also asked to recuse herself from the hearing as she is the trustee for the Natural Resource Damage Claim. No other corrections were noted.

Motion: **It was moved by Mr. Adams and seconded by Ms. Wechsler to approve the minutes of the October 31, 2003 Board meeting with the noted corrections. The motion was unanimously approved.**

Lake Point ID request for Board approval to Modify BOD and TSS Requirements: Mr. Schmitz introduced Keith Fryer from Lake Point Improvement District (LPID) to the Board. He then explained that periodically the LPID has high infiltration and inflow (I/I), usually in the spring and early summer, due to high groundwater. The UPDES permit will expire March 31, 2004. All UPDES permittees have a requirement to remove 85% of influent BOD and total suspended solids (TSS). Lake Point has requested this 85% removal requirement be waived when the renewal permit becomes effective April 1, 2004. Mr. Schmitz evaluated this application against the criteria in Section R317-1.3.2.E, UAC, and is recommending that the Board approve a waiver of the 85% removal requirements for LPID.

Mr. Echols asked if similar requests had previously been received and, if so, how they were dealt with. It was indicated that similar requests had been granted by the Board where it was shown that the problem was due to excess sewer line infiltration of ground water and that it was not cost effective to remove it. Mr. Ostler asked Mr. Fryer what procedures are in place to reduce I/I into the sewer system. Mr. Fryer said LPID videoed all of its sewer lines, identified sources of I/I and corrected the problems that were correctable. Mayor Piccolo stated he felt it was unacceptable for this condition to exist. Mr. Ostler explained that LPID managed to remove the I/I that was reasonable to remove but that there is enough remaining infiltration that LPID can't meet the 85% removal requirement. He stated that it is within the Board's authority to grant a variance to the 85% removal requirement provided it is documented that the discharge is not having an adverse impact on the environment by violating water quality standards. Staff's recommendation was for the Board to provide the waiver to LPID.

Ms. Nielson noted that Mr. Ostler's comment goes to a concern that she has with the request, which is that it isn't time-constrained. She is concerned that if the cause of the I/I is spring and early summer runoff that the waiver should be limited to only that period of time. Mr. Fryer explained it is difficult for the district to predict exactly when high ground water levels will occur. This could occur anytime between March and September. Ms. Nielson stated that LPID might not be able to control ground water that seeps into its sewer and suggested that the Board should allow the waiver to exist year round. However, she asked that staff monitor the flows to insure that it is actually weather-related conditions causing the I/I and not something else. Mr. Ostler noted LPID has made an effort to seal pipes from I/I

where is has been cost-effective to do so. He feels the Board should look at the fact that the community has been responsible to manage its sewer system to prevent extraneous water from getting in. The next step to solve the problem would be to replace the existing collection system, which would be very expensive

Motion: **It was moved by Mr. Sims and seconded by Mr. Piccolo to approve Lake Point's request to wave the 85% removal requirement for BOD & TSS with the stipulation that staff will annually review the flows to the system. The motion was unanimously carried to approval.**

Note: Mayor Thompson arrived during the presentation.

LOAN PROGRAM

Financial Assistance Status Report – Mr. Curnow updated the Board on the “Summary of Assistance Program Funds” as outlined on page 3.1.

Approval of North Fork Funding Request – Mr. Beavers introduced Lee Kapaloski with Parsons, Behle & Latimer, and Rick Noll of Forsgren Associates who are, respectively, the legal counsel and engineering consultant for the North Fork Special Service District (NFSSD). NFSSD is requesting financial assistance in the amount of \$1,640,000 for the planning, design and construction of a mechanical wastewater treatment facility to replace existing large on-site wastewater treatment and disposal systems. NFSSD is also requesting a Hardship Grant Planning Advance in the amount of \$20,000 for additional geotechnical work and a Hardship Grant Design Advance in the amount of \$227,500. NFSSD requested some flexibility in the requirement for the land to be deeded from Sundance to the District for the additional drainfields to be used for wastewater disposal in the future. The District requested the ability to negotiate a possible reversionary clause with Sundance concerning the donated property. The Board discussed the issues related to a reversion of the property and felt that the property has a monetary value and that the District could allow Sundance to repurchase the property, should it no longer be needed as part of the disposal system. Mr. Kapaloski felt that was an acceptable arrangement.

Mr. Beavers addressed three questions about the project that were raised by the Board at its previous meeting:

- 1) What projects has the WQB funded that included significant non-residential users? Referring to page 3.8 of the packet, Mr. Beavers identified eight projects and noted that the percentage of capacity for the “Principle Wastewater Generators” range from 21% at Solitude to 90% at Moroni. The terms for these loans were constant but the interest rates varied from a low of 0.00% to a high of 4.5%. All but two of the loans were interest-bearing loans.
- 2) Should the WQB Fund projects which include significant non-residential users? Under the provisions of *Utah Administrative Code (UAC) R317-101-4*, the WQB should consider certain criteria when considering a project, including whether a local contribution is being made to the project and whether the project will reduce or prevent pollution. The proposed micro-filtration plant project for NFSSD would dramatically reduce the pounds of pollutants discharged into the ground. The proposed project would also result in the abandonment of numerous small and large on-site septic systems. Also, over 25% of the anticipated project cost is being met through local contributions.
- 3) What financial assurances are there that Sundance will continue to participate in the ongoing O & M and debt service costs? Sundance will contribute \$500,000 to the project, which does

not include the cost of the land that Sundance will deed to NFSSD for additional disposal fields. Sundance's contribution constitutes approximately 23% of the total project cost. Sundance will provide NFSSD an assurance bond for the first 4 or 5 years of its debt obligation. Thereafter real property would be used to provide the security for the loan. Sundance will identify and pledge as collateral discrete piece of property with an appraised value of 150% of its share of the outstanding debt obligation.

Ms. Nielson asked if the Board would be paying for planning that has already been done. Mr. Baker explained there are three ways to address planning costs: 1) The community covers the cost and this is considered an upfront local contribution to the project; 2) the Water Quality Board provides a Planning Advance which is ultimately rolled into the long-term financing for the project; or 3) the applicant completes planning without funding assistance from the Board and the cost to do so is considered to be part of the total project cost and eligible for funding assistance. For this cost to be eligible under option #3 requires staff involvement from the beginning and review and approval of the engineering agreement and scope of work. NFSSD elected option #3 and qualified for the costs of the already-completed engineering work to be eligible for funding assistance from the Board. Mayor Piccolo would like to see the accounting to specify what funds have already been spent. Mr. Olsen asked if the Board has ever done a variable interest rate. Mr. Baker responded that it would not be practical to do one, as it would require the expense of redoing the bond every year.

Motion: **Following an extensive discussion Mayor Piccolo moved that the Board approve staff's recommendation together with the special conditions listed on page 3.10 for a \$1,640,000 loan for a term of 20 years at an interest rate of 3% to the NFSSD. An additional special condition was also imposed to allow Sundance the right to repurchase the property it is required to deed to NFSSD for the project. The motion was seconded by Mr. Sims and was approved by the majority with Mr. Olsen voting against the motion.**

Approval for waiver for the Town of Goshen – Ms. Quick introduced Mayor Carter of Goshen and Mr. Austin from Sunrise Engineering. The Town of Goshen is requesting that the Water Quality Board waive (or put in abeyance) the repayment requirement for its Planning Advance in the amount of \$33,000. Mayor Carter explained the Town of Goshen is still interested in doing a sewer project sometime in the future, but at this time its need for the sewer is not cost efficient and the existing on-site systems are not polluting ground water. Goshen's most pressing problem is to upgrade its water system. Staff recommended the Water Quality Board put in abeyance the repayment of the \$33,000 Planning Advance until a municipal wastewater project is undertaken.

Motion: **Ms. Wechsler moved that the Board approve staff's recommendation to put in abeyance the repayment of the \$33,000 Planning Advance until a municipal wastewater project is undertaken. The motion was seconded by Mr. Echols and was unanimously approved, with Rob Adams abstaining.**

RULEMAKING:

Adoption of R317-2, Standards of Quality for Waters of the State: Mr. Moellmer gave a slide presentation on the rule proposed for adoption. Following a public comment period from May 14th to June 15th 2003 appropriate changes incorporated into the proposed rule based upon written comments and statements received from the public. These changes were brought back to the Board on August 15, 2003. The public was re-notified and the comment period extended to November 30, 2003. No additional comments from any governmental agencies or the public were received. Staff recommended the Board

give approval for all changes made in this triennial review of Utah's Water Quality Standards and for the changes to be incorporated into the rule.

Motion: Mr. Echols moved that the Board approve staff's recommendation to approve of the proposed changes to R317-2. The motion was seconded by Mayor Piccolo and was unanimously approved. Note: Dr. Kochenour left prior to the vote.

OTHER BUSINESS:

Request of approval of Castle Valley Ground Water Aquifer Classification Petition: Ms. Cady introduced Mayor Keeler of Castle Valley, Mike Lowe and Janae Wallace with the Utah Geological Survey. Ms. Cady explained that staff has reviewed the data submitted with the petition and by the citizens in the upper portion of Castle Valley before the end of the public comment period and considered the comments received during the public comment period. It is staff's recommendation that the Board approve the classification of the valley-fill aquifer in the lower part of Castle Valley, as designated in the revised petition submitted by the Town of Castle Valley.

Motion: Mayor Thompson moved that the Board approve staff's recommendation to approve the classification of the valley-fill aquifer in the lower part of Castle Valley. The motion was seconded by Mr. Adams and was unanimously approved.

Appointment of Ed Macauley as signatory on behalf of the WQB: Mr. Ostler explained to the Board that Ed Macauley was recently selected as the new manager of the Construction Assistance Section replacing Walt Baker. In this position Ed will be responsible for closing loans and executing hardship grant agreements in behalf of the Water Quality Board. This request is for the Board to designate Ed Macauley as a signatory for official documents associated with the Utah Wastewater Project Assistance Program.

Motion: Mr. Adams moved that the Board approve staff's recommendation to designate Ed Macauley as a signatory in behalf of the Water Quality Board. The motion was seconded by Mr. Child and was unanimously approved.

Request to designate the Division of Radiation Control Director, Dane Finerfrock, as an Co-Executive Secretary to the Board for specific radiation control facilities: Rob Herbert, the new Ground Water Section Manager, explained that Bill Sinclair, who was previously approved by the Board to be a Co-Executive Secretary to the Board, was recently promoted as Deputy Director of the Department of Environmental Quality. Filling the vacancy left by Mr. Sinclair's departure is Dane Finerfrock. It is staff's recommendation that Dane Finerfrock be appointed as an Co-Executive Secretary to the Water Quality Board to exercise the powers prescribed under the provisions of *UCA 19-5-106* to administer the requirements of *UAC R317-6* as applied to the following facilities: Envirocare, Rio Algom, International Uranium Corp and Plateau Resource Limited. This would further include, as allowed under the provisions of *UCA 19-5-104(1)(k)*, the responsibility for administering the Ground Water Protection Rules under the Utah Water Quality Act for the referenced facilities.

Motion: DEQ Executive Director, Dianne Nielson, recommended this designation in accordance with statutory requirements for designating Executive Secretaries. Mayor Thompson moved that the Board approve staff's recommendation to approve Dane Finerfrock as a Co-Executive Secretary to

the Board for specific radiation control facilities and activities. The motion was seconded by Mr. Child and was unanimously approved.

Board discussion of Subcommittees suggestions on Quality Growth: In recognition of the short time remaining to adequately discuss the Quality Growth Subcommittee's suggestions, Mr. Williams asked that the Board agree to have a work meeting following the next Water Quality Board meeting on January 16, 2004. The Board members agreed to hold a work meeting on January 16, 2004.

NEXT MEETING

The next Water Quality Board meeting will be held on January 16, 2004 at the Cannon Health Building in Salt Lake City, in Room 101 at 9:30 a.m.

William Williams, Chairman

Located in:
Fbell/wp/donostler/wqb/wqb/Dec 5 2003 WQB Minutes.doc